

Entered - 05/11/00 - sb
CL00L0281 - DIANNE C. MITCHELL

CLAIM OF: **COPYZXPRESSED, INC.,**
through its attorney,
T. Bart Gary
100 Galleria Parkway
Suite 1600
Atlanta, Georgia 30339-5948

01-*R*-0279

For damages alleged to have been sustained as a result of a sewer
back up on April 2, 2000 at 271 Spring Street.

THIS ADVERSE REPORT IS APPROVED

BY: *Rosalind Rubens Newell* by *Robert C. G. D.A.*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVISED BY
CITY COUNCIL MAR 05 2001

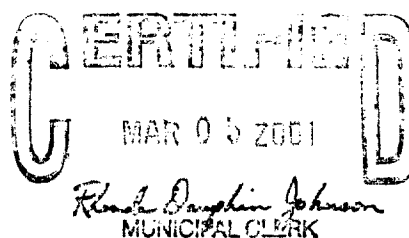
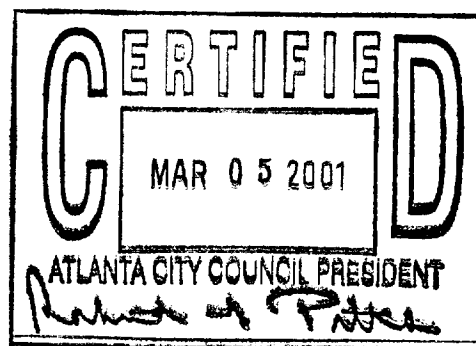
ADVERSE REPORT

COM. *P.S. & L.A.*

DATE *2/27/01*

CHAL. *C. T. Martin*

Michael R. [Signature]
Dorothy [Signature]



DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0281

Date: February 5, 2001

Claimant /Victim COPYZXPRESSED, INC.

BY: (Atty) T. Bart Gary

Address: 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30339-5948

Subrogation: _____ Claim for Property damage \$ not stated Bodily Injury \$ _____

Date of Notice: 05/04/00 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.)

Date of Occurrence 04/02/00 Place: 271 Spring Street

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that its property was damaged due to the overflow of storm water caused by an uncapped pipe that was installed through the wall of its building. The investigation determined that the City Sewer Operations' crew did not install the pipe, but that the pipe may have been installed by a private contractor working on the building.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____

City not involved X Offer rejected Compromise settlement

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager: [Signature] Concur/date 02-05-01

Committee Action: 9 Council Action



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

March 14, 2001

T. Bart Gary
Attorney at Law
100 Galleria Parkway
Suite 1600
Atlanta, GA 30339-5948

01-R-0279

RE: CopyZXpressed, Inc.

Dear Attorney Gary:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on March 05, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: **Claims Division/Law Department**

FREEMAN MATHIS & GARY

A LIMITED LIABILITY PARTNERSHIP

Jordan
05/02/00
De

Attorneys at Law

100 Galleria Parkway
Suite 1600
Atlanta, Georgia 30339-5948

ENTERED - 5-11-00 - SB
00L0281 - DOBBS JORDAN

Telephone: 770.818.0000
Facsimile: 770.937.9960

www.fmglaw.com

T. BART GARY

MAY 04 2000

Writer's Direct Access
770.818.1403
bgary@fmglaw.com

May 2, 2000

**CERTIFIED MAIL –
RETURN RECEIPT REQUESTED**

The Honorable William Campbell
Mayor
City of Atlanta
City Hall, Suite 2400
55 Trinity Avenue
Atlanta, Georgia 30335

**Re: Ante Litem Notice Pursuant to O.C.G.A. 36-33-5(b) Related to Water Damage
at 271 Spring Street, Atlanta, Georgia 30303**

Dear Mayor Campbell:

The undersigned law firm represents CopyZXpressed, Inc. This letter is official notice to the City of Atlanta that CopyZXpressed has a claim against the City of Atlanta for all losses and damages sustained as a result of water damage in the production facility in the basement of the old Firestone Building at 271 Spring Street, Atlanta, Fulton County, Georgia on April 2, 2000. The essential facts giving rise to this loss are as follows.

The basement space of 271 Spring Street was an unfinished and unoccupied space for many years. In February 2000, the basement space of 271 Spring Street was renovated and outfitted to provide a photocopy production facility for CopyZXpressed. In conjunction with this build-out, additional bathroom and kitchen facilities were added to the basement. Those facilities were tied into existing sewer and water service lines in the building.

Shortly after moving into the new space, in early March 2000, the employees of CopyZXpressed experienced a backup of raw sewage coming from the toilets and sinks in the basement space. Plumbing contractors and other workmen were called to investigate this complaint, and it was discovered then that the plumbing lines from the building were not tied into the sewer line, but discharging directly into the earth under or adjacent to Spring Street. Whereas previously the limited volume of waste water had been absorbed by the surrounding ground, the surrounding ground clearly could not absorb the volume of waste water produced CopyZXpressed.

Hon. William Campbell
May 2, 2000
Page 2

Employees of the City were called to 271 Spring Street to investigate the sewer problem on or before Friday, March 31, 2000. Those employees excavated the ground outside of 271 Spring Street at the location where the unconnected pipe was discharging sewage from the building. We now understand that the city workers discovered that there was another pipe, approximately 5 inches in diameter, that penetrated the basement wall along Spring Street approximately 12' to 15' beneath street level and terminated. Prior to the City's excavation, this pipe was cast iron and was capped on the interior. We believe that the city employees removed the cap and may have replaced the pipe with a PVC pipe.

The situation was unresolved at the end of the workday on Friday, March 31, 2000. The city employees placed steel plates over the hole. The PVC pipe that penetrated the basement wall office was left uncapped.

On the evening and morning of April 1/April 2, 2000, a heavy rainstorm filled the excavated pit, and forced water, mud, gravel and sewage from the pit through the open PVC pipe into the facility of CopyZXpressed.

CopyZXpressed, Inc. has sustained thousands of dollars of damages as the result of this inundation of water. These damages include the loss of the use of the facility for the production work of CopyZXpressed, damage to floor tile, base molding and carpeting, damage to walls, damage to computer equipment, photocopy machines, inventory, supplies and HVAC equipment in the basement office suite.

Please be advised that this office continues to investigate the facts and circumstances surrounding this flood, and the damages suffered by CopyZXpressed. We ask that a member of the city government contact this office and advise us what actions the City intends to take to remedy this situation and compensate CopyZXpressed for the damages it has suffered. We are ready to provide the City with whatever information it requests regarding the facts and circumstances surrounding this claim. We look forward to hearing from a member of your staff shortly.

Very truly yours,


FREEMAN MATHIS & GARY, LLP


T. Bart Gary

cc: Susan P. Langford, City Attorney (via certified mail, return receipt requested)
Mr. Forrest Brown
Jefferson M. Allen, Esq.

HGA1012/6024.39147

01-*e*-0279



RCS# 2689
3/05/01
6:36 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1 thru. 13

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	NV Martin	Y Emmons
Y Bond	Y Morris	B Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
01-O-0240
01-R-0307
01-R-0346

CONSENT

**ITEMS ADOPTED ON CONSENT
AGENDA**

1. 01-O-0179
 2. 01-O-0348
 3. 00-O-1657
 4. 01-O-0355
 5. 01-O-0152
 6. 01-R-0190
 7. 01-R-0349
 8. 01-R-0351
 9. 01-R-0290
 10. 01-R-0304
 11. 01-R-0305
 12. 01-R-0369
 13. 01-R-0370
 14. 01-R-0297
 15. 01-R-0300
 16. 01-R-0298
 17. 01-R-0299
 18. 01-R-0251
 19. 01-R-0252
 20. 01-R-0253
 21. 01-R-0254
 22. 01-R-0255
 23. 01-R-0256
 24. 01-R-0257
 25. 01-R-0258
 26. 01-R-0259
 27. 01-R-0260
 28. 01-R-0261
 29. 01-R-0262
 30. 01-R-0263
 31. 01-R-0264
 32. 01-R-0265
 33. 01-R-0266
 34. 01-R-0267
 35. 01-R-0268
 36. 01-R-0269
 37. 01-R-0291
 38. 01-R-0292
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**ITEMS ADVERSED
ON CONSENT AGENDA**

39. 01-R-0270
40. 01-R-0271
41. 01-R-0272
42. 01-R-0273
43. 01-R-0274
44. 01-R-0275
45. 01-R-0276
46. 01-R-0277
47. 01-R-0278
48. 01-R-0279
49. 01-R-0280
50. 01-R-0281
51. 01-R-0282
52. 01-R-0283
53. 01-R-0284
54. 01-R-0285
55. 01-R-0286
56. 01-R-0287
57. 01-R-0288
58. 01-R-0289